

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS

In re:

MARTIN D. RODGERS,  
Debtor.

Chapter 7  
Case No. 18-30057-EDK

**MOTION FOR RELIEF FROM AUTOMATIC STAY  
AND FOR AUTHORITY TO FORECLOSE MORTGAGE**

NOW COMES Nationstar Mortgage LLC d/b/a Mr. Cooper (hereinafter “Movant”), a secured creditor, by and through undersigned counsel, and hereby moves this Honorable Court for relief from the automatic stay and for authority to foreclose a certain mortgage encumbering the property known and numbered as 31 Laurel Avenue, Westfield, Massachusetts 01085, pursuant to Bankruptcy Rules 4001 and 9014 and Section 362 of the Bankruptcy Code.

In support of this Motion, Movant states as follows:

1. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. § 1334 and 28 U.S.C. § 157(b)(2)(G). This case relates to a case under Title 11 of the United States Code (the “Bankruptcy Code”). This proceeding is a “core” proceeding as this term is defined in the Code.
2. On January 29, 2018, Martin D. Rodgers, debtor in the above captioned case (hereinafter “Debtor”), filed a voluntary petition under Chapter 7 of the Bankruptcy Code.
3. Debtor is the co-owner<sup>1</sup> of real property known and numbered as 31 Laurel Avenue, Westfield, Massachusetts 01085 (hereinafter “Property”).
4. According to the Debtor’s Statement of Intention, the Property is being surrendered.
5. Movant is the current holder of a certain note given by Debtor to Virgin Money USA, Inc., in the original principal amount of \$231,990.00, dated December 23, 2008 (hereinafter the “Note”). The Note is secured by a first position mortgage given by Debtor and Leanne M. Rodgers f/k/a Leanne M. Romani to Mortgage Electronic Registration Systems, Inc. (hereinafter “MERS”) as nominee for Virgin Money USA, Inc., of even date and original principal amount, recorded with the Hampden County Registry of Deeds in Book 17592, Page 396 (hereinafter the “Mortgage”). MERS

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<sup>1</sup> Per deed recorded with the Hampden County Registry of Deeds at Book 14920, Page 360, the Property is owned by Debtor and Leanne M. Romani.

assigned the mortgage to Movant via Assignment of Mortgage dated May 31, 2017, and recorded with said Registry in Book 21725, Page 278.

6. The Mortgage encumbers the Property. Copies of the Note, Mortgage and Assignment are annexed hereto and marked as Exhibits "A", "B", and "C." The Mortgage is in first position. Aside from the Property, there is no other collateral securing the obligation of Debtor under the Note.
7. Debtor has defaulted on the Note and Mortgage by failing to make regular monthly mortgage payments to Movant.
8. As of February 5, 2018, the balance due Movant on the Note was approximately \$223,341.21 (may not include negative escrow balances or recent escrow advances). The full amount of the Movant's claim together with allowable interest, reasonable attorneys' fees, court costs, and other recoverable expenses, is secured by the Mortgage.
9. The estimated fair market value of the Property is \$140,000.00. The basis for such valuation is Schedule A of the Debtor's Bankruptcy Petition. Based upon this valuation, it is Movant's opinion that the Liquidation Value of the Property is \$131,861.60 (calculated as the fair market value, less a reasonable realtor's fee of 5% (\$7,000.00), deed stamps (\$638.40), and anticipated costs incurred for a real estate closing (\$500.00)).
10. As of February 5, 2018, Debtor owes Movant a total contractual arrearage of \$26,579.40 calculated as follows:

1 monthly payment (1/1/2017 – 1/1/2017) at \$1,821.31	\$1,821.31
12 monthly payments (2/1/2017 – 1/1/2018) at \$1,905.30	\$22,863.60
1 monthly payment (2/1/2018 – 2/1/2018) at \$1,894.49	\$1,894.49

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Total Contractual Arrearage	\$26,579.40
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11. By the time of the hearing on this Motion, it is anticipated that the March 1, 2018, monthly mortgage payment (\$1,894.49) will also be due and outstanding. In addition, legal fees and costs in the amount of \$981.00 have been incurred in preparing and filing this motion, bringing the total contractual arrears to \$29,454.89.
12. The encumbrances upon the Property are as follows:

Lien Type	Lien Holder	Lien Amount	Book/Page
1st Mortgage	Movant	\$223,341.21	17592/396

Execution Safe Home Security, Inc. \$3,069.55 21680/367

13. The total amount of encumbrances upon the Property is therefore approximately \$226,410.76.
14. Upon information and belief, a Declaration of Homestead is filed with respect to the Property with the Hampden County Registry of Deeds in Book 14920, Page 381.
15. Movant is entitled to Relief from the Automatic Stay for cause pursuant to 11 U.S.C. §362(d)(1) inasmuch as the Debtor has failed to make regular monthly payments to Movant as set forth in contravention of the terms of the Note and Mortgage.
16. Movant is entitled to Relief from the Automatic Stay pursuant to 11 U.S.C. §362(d)(2) in that Debtor has no equity in the Property above and beyond the Property's liquidation value and the Property is not necessary to an effective reorganization of the Debtor's estate.
17. No prior application for the relief requested herein has been made.

WHEREFORE Movant respectfully requests that this Honorable Court:

- a) Grant the Motion for Relief from the Automatic Stay, and for leave to Foreclose Mortgage, allowing Nationstar Mortgage LLC d/b/a Mr. Cooper, its successors or assigns, to foreclose said mortgage (including, at its sole option, leave to accept a deed-in-lieu of foreclosure from the Debtor, his heirs, successors, assigns or transferees); and for it or a third party purchaser to prosecute summary process proceedings to evict any persons residing in the Property; and
- b) Grant such other Relief as this Honorable Court may deem just and proper.

Respectfully submitted,  
Nationstar Mortgage LLC d/b/a Mr. Cooper  
By its Attorneys,  
Guaetta & Benson, LLC

DATED: February 13, 2018

/s/ Megan O'Keefe Manzo  
Megan O'Keefe Manzo, Esq.  
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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS

In re:

MARTIN D. RODGERS,  
Debtor.

Chapter 7  
Case No. 18-30057-EDK

**ORDER GRANTING RELIEF FROM AUTOMATIC  
STAY AND AUTHORITY TO FORECLOSE MORTGAGE**

This case having come before the undersigned United States Bankruptcy Judge for the District of Massachusetts, upon the request of Nationstar Mortgage LLC d/b/a Mr. Cooper, its successors or assigns (hereinafter “Movant”) for Relief from the Automatic Stay and For Leave to Foreclose its Mortgage; and no objection having been filed, or after a hearing thereon, as the case may be, and after proper notice was given;

WHEREFORE, the Court grants Relief from the Automatic Stay to Movant, and its successors or assigns, to seek to foreclose a certain mortgage on property known and numbered 31 Laurel Avenue, Westfield, Massachusetts 01085, recorded with the Hampden County Registry of Deeds in Book 17592, Page 396, by entry and by exercise of the power of sale contained in the mortgage.

NOW THEREFORE, it is hereby ORDERED, ADJUDGED AND DECREED that Movant, its successors or assigns, are granted Relief from the Automatic Stay to seek to foreclose the mortgage (including, at its sole option, accepting a deed-in-lieu of foreclosure from the Debtor, his heirs, successors, transferees or assigns or offering, providing and entering into any potential forbearance agreement, loan modification, or other loan workout with the Debtor) filed with the Hampden County Registry of Deeds in Book 17592, Page 396, by entry and by exercise of the power of sale contained in the mortgage and leave to seek to proceed with summary process proceedings to evict any persons residing in the Property, in accordance with applicable state and federal law.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at the United States Bankruptcy Court.

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Hon. Elizabeth D. Katz  
United States Bankruptcy Court Judge

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS

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MARTIN D. RODGERS,  
Debtor.

Chapter 7  
Case No. 18-30057-EDK

I, Megan O'Keefe Manzo, as Attorney for Nationstar Mortgage LLC d/b/a Mr. Cooper, hereby certify that I have this date served copies of the foregoing Motion for Relief from Automatic Stay and Authority to Foreclose Mortgage in reference to the above-captioned case, by mailing same first class, postage prepaid (unless otherwise noted), upon the following parties:

Debtor

Martin D. Rodgers  
13 Magnolia Terrace  
South Hadley, MA 01075

Counsel for Debtor

George I. Roumeliotis, Esq. (VIA ECF)

Chapter 7 Trustee

Gary M. Weiner, Esq. (VIA ECF)

Assistant U.S. Trustee

Richard King, Esq. (VIA ECF)

City of Westfield  
Office of the Tax Collector  
City Hall, Room 105  
59 Court Street  
Westfield, MA 01085

Leanne M. Rodgers a/k/a Leanne Mary Romani  
31 Laurel Avenue  
Westfield, MA 01085

Safe Home Security, Inc.  
c/o Frank J. Maier, Esq.  
Law Office of Frank J. Maier & Assoc.  
500 Main Street, Suite 580  
Worcester, MA 01608

DATED: February 13, 2018

/s/ Megan O'Keefe Manzo  
Megan O'Keefe Manzo, Esq. (BBO# 652522)